S.B.CRIMINAL MISC. PETITION NO.190/2007
(Madan Lal V/s State of Rajasthan)

Date of order :: 09.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.D.K.Sharma, for the petitioner.
Mr.Ashok Upadhyay, Public Prosecutor.

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

The learned counsel for the petitioner states that Mahendra Pickup vehicle No. RJ.21GA 1022 was seized in connection with FIR No.109/2006 of Shri Balaji Police Thana for offence under Section 3/7 of the Essential Commodities Act.

The petitioner submitted an application under Section 457 Cr.P.C. before the Collector, Nagaur. The learned Collector, Nagaur after hearing the parties vide order dtd.16.01.2007 released the said vehicle to the petitioner on supurdginama, but he has imposed condition No.1 asking the petitioner to furnish Bank Guarantee of Rs.2,00,000/-. The

learned counsel for the petitioner states that the condition of asking for bank guarantee is quite onerous and unjustified which amounts to abuse of process of the Court. He has relied on the decision of this Court in the case of Rajendra Kumar V/s State of Rajasthan reported in 1996 Cr.L.R. (Raj.) 101 as well as judgment of this Court in the case of Krishi Rasayan Export Pvt. Ltd. and State of Rajasthan reported in 2002(2) Cr.L.R.(Raj.)1265. In the case of Rajendra Kumar, it was held that the condition of asking for bank guarantee is quite onerous and unjustified.

The learned Public prosecutor states that the Collector, Nagaur has asked for bank guarantee only for releasing the said vehicle, therefore, it cannot be treated as onerous conditions.

I have gone through the order of the Dist. Collector, Nagaur dtd.16.1.2007.

In view of the judgment cited by the learned counsel for the petitioner in the case of Rajendra Kumar (supra), I am of the view that the condition of furnishing Bank guarantee of

Rs.2 lakhs appears to be onerous and unjustified which amounts to abuse of process of the Court.

Looking to the facts and circumstances of the case, this petition is allowed and the order of the Dist. Collector, Nagaur dated 16.1.2007 is modified and it is ordered that the petitioner instead of furnishing bank guarantee of Rs.2 lakhs shall furnish solvent surety of Rs.2,00,000/- along with personal bond (supurdginama) in the sum of Rs.2 lakhs to the satisfaction of the Collector, Nagaur to the effect that the petitioner shall produce the said vehicle as and when ordered by the Collector, Nagaur and the petitioner shall not sell, transfer or alienate the said vehicle to any person till the final adjudication of the matter.

(KRISHAN KUMAR ACHARYA), J.

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